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8
9 Attorney for Plaintiff

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF MONTANA**
12 **GREAT FALLS DIVISION**

13 BRANDY AZURE,) CV-2021-112-GF-BMM
14)
15 Plaintiff,)
16 vs.) **FIRST AMENDED COMPLAINT and**
17) **JURY DEMAND**
18 UNITED STATES OF AMERICA, JARED)
19 STANDING, JASON COOK, ROOSEVELT)
20 COUNTY, and DOES 1-10,)
21)
22 Defendants.)
23)
24)
25)
26)
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28)

Plaintiff alleges as follows:

1. This is an action for deprivation of civil rights under color of law, and for assault and battery, negligence, and other wrongful acts. This action arises out of both federal and state law for damages resulting from the unlawful

1 conduct of Defendants.

2 2. This Court has jurisdiction over this cause of action pursuant to the Federal
3 Tort Claims Act, 28 U.S.C. 2671, *et seq.*, because the claim arises from
4 conduct of federal government agents and Plaintiff has exhausted
5 administrative remedies.
6

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8 3. This Court has exclusive jurisdiction over tort claims brought against the
9 United States pursuant to 28 U.S.C. § 1346(b).
10

11 4. This Court also has subject matter jurisdiction over claims specified in this
12 Complaint pursuant to 42 USC §1983, 28 USC §1331, 28 USC §1343, and 42
13 USC §1988. Plaintiff also seeks redress for violations of protections
14 afforded under the Montana Constitution.
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17 5. Jurisdiction for state law claims against Defendants pursuant to the law of
18 the State of Montana is conferred upon this Court pursuant to 28 U.S.C.
19 §1367.
20

21
22 6. Plaintiff Brandy Azure is an enrolled tribal member on the Fort Peck Indian
23 Reservation, a citizen of the State of Montana, and a resident of Roosevelt
24 County, Montana.
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26 7. At all times relevant to this lawsuit, Defendant Jared Standing was a law
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1 enforcement officer employed by Roosevelt County.

2 8. At all times relevant to this lawsuit, Defendant Jason Cook was a
3
4 correctional officer for the Fort Peck Tribal Jail.

5 9. Defendants Does 1-10 are individuals whose true identities and capacities
6
7 are as yet unknown to Plaintiff and her counsel, despite diligent inquiry and
8
9 investigation, and who acted herein as described more particularly below in
10
11 connection with the breaches of duties and/or violations of law alleged
12
13 here and who in some manner or form not currently discovered or known
14
15 to Plaintiff may have contributed to or be responsible for the injuries
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17 alleged here. The true names and capacities of the Doe Defendants will be
18
19 substituted as they become known.

20 10. Brandy Azure filed Federal Tort Claim Act claims on April 13, 2021, and the
21
22 Department of Interior Bureau of Indian Affairs received the claims on April
23
24 21, 2021. The government has not acted on the claims, therefore Plaintiff's
25
26 claims are now ripe for adjudication.

27 11. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(e) and 1402(b)
28
and LR 3.2 because the incidents giving rise to this lawsuit occurred in
Roosevelt County, Montana.

- 1 12. On July 11, 2019, Brandy Azure went out with some friends to the
2 Cattleman's Cut Bar near Wolf Point, Montana. After closing time in the
3 morning of July 12, 2019, the friends dropped Ms. Azure at her mother's
4 house in Poplar, Montana.
5
- 6 13. Ms. Azure had arranged for her daughter and two-year-old granddaughter
7 to stay with her mother that night. Upon arriving at her mother's house,
8 Ms. Azure discovered that her daughter and granddaughter were not there,
9 but had gone to a house known to Ms. Azure to be a meth house.
10
- 11 14. Ms. Azure went to the meth house to extract her daughter and
12 granddaughter. People at the meth house called the police. Roosevelt
13 County deputy Jared Standing came to the meth house and arrested Ms.
14 Azure for a domestic disturbance and transported her to the Poplar tribal
15 jail.
16
- 17 15. At the Poplar tribal jail, Deputy Standing processed Ms. Azure, then Tribal
18 Correctional Officer Jason Cook told Ms. Azure that she had to take off her
19 clothes and put on an orange jumpsuit. Ms. Azure refused.
20
- 21 16. CO Cook then told Ms. Azure that if she did not change her clothes, he
22 would do it for her. Ms. Azure still refused.
23
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1 17. CO Cook then became visibly angry, walked out the booking room, then
2 returned and told Ms. Azure to put her hands behind her back, which she
3 did.
4

5 18. CO Cook then grabbed Ms. Azure's arm and lifted it behind her and
6 directed her into a holding cell. Deputy Standing followed them into the
7 holding cell.
8

9 19. CO Cook told Ms. Azure to get on her knees. Ms. Azure noticed that there
10 were no video cameras in the cell and asked Deputy Standing if he had his
11 video on. Deputy Standing replied that he did have his video on.
12

13 20. Ms. Azure repeatedly asked CO Cook to allow her to remain in her own
14 clothes, since she was not going to come in contact with anyone else in the
15 jail.
16

17 21. CO Cook repeatedly threatened to undress Ms. Azure if she refused to
18 change into an orange jumpsuit.
19

20 22. Ms. Azure told CO Cook that he could not undress her, to which he replied,
21 "Yes the fuck I can." Deputy Standing and CO Cook then each took one of
22 Ms. Azure's arms and forced her face first onto the floor of the cell and
23 handcuffed her hands behind her back.
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- 1 23. CO Cook stripped off Ms. Azure's pants and underwear.
- 2 24. Ms. Azure told Deputy Standing and CO Cook that it was improper for two
- 3 males to strip a female and that she felt violated. CO Cook responded,
- 4 "You're welcome to feel violated."
- 5
- 6 25. CO Cook then removed the handcuffs from Ms. Azure and stripped off the
- 7 two shirts and bra she was wearing.
- 8
- 9 26. Ms. Azure remained laying completely naked on the floor of the cell. CO
- 10 Cook and Deputy Standing left the cell.
- 11
- 12 27. After a period of time, CO Mike Boxer brought Ms. Azure a blanket.
- 13
- 14 28. Later CO Carrie Pribbernow came to the cell and brought back Ms. Azure's
- 15 clothing and Ms. Azure was released.
- 16
- 17 29. Several days later, the charges against Ms. Azure were dismissed.
- 18
- 19 30. Ms. Azure filed a complaint with the BIA, which conducted an internal
- 20 affairs investigation.
- 21
- 22 31. The investigation resulted in findings that Ms. Azure's allegations of
- 23 excessive use of force, conduct unbecoming, and disrespectful conduct
- 24 were all sustained.
- 25
- 26 32. This suit seeks money damages as compensation for the injuries and
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1 damages incurred and continuing to be incurred by Brandy Azure that were
2 caused by the negligent and wrongful acts and omissions of employees of
3 the United States Government acting within the scope of their office and
4 employment, under circumstances where the United States, if a private
5 person, would be liable to Brandy Azure in accordance with the laws of the
6 State of Montana, as well as the negligent and wrongful acts of Deputy
7 Standing and Roosevelt County.
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11 33. The United State is liable for the actions and conduct of its agents as
12 alleged in this Complaint, as they were acting within the course and scope
13 of their employment as officers for the Bureau of Indian Affairs.
14

15 34. While acting under the color of state law, agents of Defendants subjected
16 Brandy Azure to deprivation of rights, privileges, or immunities secured by
17 the United States Constitution.
18
19

20 35. Defendant's agents acted with deliberate indifference to the substantial
21 risk of serious harm to Brandy Azure.
22

23 36. Brandy Azure would have suffered less harm if Defendants and their agents
24 had not acted with deliberate indifference to the substantial risk of harm to
25 Brandy Azure.
26
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1 37. The acts of Defendants Standing and Roosevelt County and the acts of the
2 agents of Defendant United States shock the conscience and offend the
3 community's sense of fair play and decency, and resulted in harm to Brandy
4 Azure.
5

6 38. At all times pertinent, Defendants were subject to a duty of care under law
7 to protect Brandy Azure's constitutional, statutory, and common law rights.
8 Defendants and their agents breached the applicable standards of care,
9 including negligent violation of Brandy Azure's constitutional, statutory,
10 and common law rights, and negligent performance of official duties.
11

12 39. The conduct of Defendants Standing and Roosevelt County and the conduct
13 of the agents of Defendant United States caused damage to Brandy Azure.
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17 **COUNT 1**
18 **42 USC § 1983**
19 **INDIVIDUAL LIABILITY**
20

21 40. Plaintiff hereby incorporates all prior paragraphs.

22 41. At all times in which they interacted with Brandy Azure on or about July 12,
23 2019, Deputy Standing acted under color of law, statutes, ordinances, rules,
24 regulations, customs, policies, practices, and/or usages of Roosevelt
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1 County, and CO Cook acted under color of law, statutes, ordinances, rules,
2 regulations, customs, policies, practices, and/or usages of Ft Peck and the
3 United States
4

5 42. At all times in which they interacted with Brandy Azure on or about July 12,
6 2019, Deputy Standing and CO Cook acted within the course and
7 scope of their employment.
8

9
10 43. Deputy Standing and CO Cook, while acting under color of law, deprived
11 Brandy Azure of her civil rights under the Fourth Amendment to be free
12 from detention and arrest not based on reasonable suspicion or probable
13 cause, and to be free from unreasonable seizures, false arrest, false
14 imprisonment, and excessive force.
15

16
17 44. Deputy Standing and CO Cook, while acting under color of law, deprived
18 Brandy Azure of her civil rights under the Fourteenth Amendment to due
19 process of law and freedom from cruel and unusual punishment.
20

21
22 45. The acts and omissions of Deputy Standing and CO Cook, while carried out
23 under color of law, have no justification or excuse in law, and instead
24 constitute a gross abuse of governmental authority and power, shock the
25 conscience, are fundamentally unfair, arbitrary and oppressive, and
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1 unrelated to any activity in which governmental officers may appropriately
2 and legally undertake in the course of protecting persons or property, or
3 ensuring civil order. The above acts and omissions were consciously chosen
4 from among various alternatives.
5

6
7 46. Deputy Standing and CO Cook assaulted Brandy Azure in violation of rights
8 guaranteed to Brandy Azure under the United States Constitution.
9

10 47. This unnecessary and unwarranted use of force was an unlawful and
11 excessive use of force, in violation of Brandy Azure's rights.
12

13 48. Each of the foregoing acts and/or omissions in this Count directly and
14 proximately caused or contributed to Brandy Azure's constitutional
15 deprivations, injuries, and damages. Brandy Azure suffered and will
16 continue to suffer great mental and physical pain, suffering, anguish, fright,
17 nervousness, anxiety, shock, humiliation, indignity, harm to reputation, and
18 apprehension, which have caused Brandy Azure to sustain damages in a
19 sum to be determined at trial.
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23 **COUNT 2**
24 **42 USC § 1983**
25 **ENTITY LIABILITY**
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1 49. Plaintiff hereby incorporates all prior paragraphs.

2 50. Defendants Roosevelt County, Fort Peck Tribal Jail, and the United States
3 established policies, customs, and practices that caused the violation of
4 Brandy Azure's rights under the United States Constitution.
5

6 51. The policies, customs, and practices implicitly or explicitly adopted by
7 Defendant Roosevelt County, Fort Peck Tribal Jail, and the United States
8 amounted to deliberate indifference to and conscious disregard of Brandy
9 Azure's constitutional rights and ratification of violation of those rights.
10

11 52. These constitutional violations were acts of official governmental policies.
12

13 53. Each of the foregoing acts and/or omissions in this Count directly and
14 proximately caused or contributed to Brandy Azure's constitutional
15 deprivations, injuries, and damages. Brandy Azure suffered and will
16 continue to suffer great mental and physical pain, suffering, anguish, fright,
17 nervousness, anxiety, shock, humiliation, indignity, harm to reputation, and
18 apprehension, which have caused Brandy Azure to sustain damages in a
19 sum to be determined at trial.
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25 **COUNT 3**
26 **MONTANA CONSTITUTIONAL RIGHTS**
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1 54. Plaintiff hereby incorporates all previous paragraphs.

2 55. Pursuant to the Montana Constitution, *see Dorwart v. Caraway*, 58 P.3d
3
4 128 (Mont. 2002), Brandy Azure has the fundamental, inalienable, and self-
5 executing rights to individual privacy; to be secure in her person, papers,
6
7 home, and effects from unreasonable searches and seizures; and not to be
8 deprived of life, liberty, or property without due process of law.
9

10 56. Defendants' acts and omission related to the incident involving Brandy
11 Azure on July 12, 2019, violated Brandy Azure's constitutional rights.
12

13 57. Brandy Azure has the right to seek recourse against those who violate her
14 constitutional rights.
15

16 58. Each of the foregoing acts and/or omissions in this Count directly and
17 proximately caused or contributed to Brandy Azure's constitutional
18 deprivations, injuries, and damages, and Brandy Azure is entitled to
19 compensatory damages and attorneys' fees for Defendants' violations of
20
21 her state constitutional rights.
22

23 **COUNT 4**
24 **NEGLIGENCE**
25

26 59. Plaintiff hereby incorporates all previous paragraphs.
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- 1 60. At all times pertinent to this Complaint, Defendants were subject to a duty
2 of care under state law in the exercise of the police function to protect
3 Brandy Azure's constitutional, statutory, and common law rights. The
4 conduct of Defendants as set forth in this Complaint does not comply with
5 the standard of care, and included negligent use of excessive force;
6 negligent hiring, training, supervision, and discipline of law enforcement
7 officers; negligent enactment, enforcement, and violation of law
8 enforcement policies and procedures; negligent violation of Brandy Azure's
9 constitutional, statutory, and common law rights; and negligent
10 performance of official duties.
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16 61. As a direct and proximate result of Defendants' negligence, Brandy Azure
17 suffered injuries.
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19 **COUNT 5**
20 **ASSAULT AND BATTERY**
21

- 22 62. Plaintiff hereby incorporates all previous paragraphs.
23
24 63. Deputy Standing and CO Cook intentionally made harmful or offensive
25 contact with Brandy Azure. Their use of force exceeded that necessary to
26 restrain or detain or arrest Brandy Azure.
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1 64. Deputy Standing's and CO Cook's intentional acts constituted assault and
2 battery upon Brandy Azure, and directly and proximately caused injuries to
3 Brandy Azure.
4

5 **COUNT 6**
6 **INFLECTION OF EMOTIONAL DISTRESS**
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8 65. Plaintiff hereby incorporates all previous paragraphs.

9 66. Defendants' negligent or intentional acts and omissions described here
10 caused Brandy Azure to suffer serious or severe emotional distress that no
11 reasonable person would be expected to endure.
12

13 67. Any normal person in Brandy Azure's situation would have experienced
14 severe emotional distress as Brandy Azure has.
15

16 68. As a direct and proximate result of Defendants' conduct, Brandy Azure
17 suffered, and continue to suffer, serious and severe emotional distress that
18 was a reasonably foreseeable consequence of Defendants' negligent or
19 intentional acts and omissions, entitling Brandy Azure to damages.
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23 **COMPENSATORY DAMAGES**
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25 69. As a direct result of Defendants' unlawful conduct, Brandy Azure suffered
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1 violations of her constitutional, statutory, and common law rights as set
2 forth above.

3
4 70. As a direct and proximate result of Defendants' unlawful conduct, Brandy
5 Azure suffered physical and emotional pain and injuries.

6
7 **ATTORNEYS' FEES**

8 71. Pursuant to 42 USC § 1988, the Court may allow an award of attorneys' fees
9 to Plaintiff if she prevails on claims asserted under 42 USC § 1983.

10
11 72. Plaintiff is entitled to recover reasonable attorneys' fees for violations of
12 state constitutional rights under Montana's private attorney general
13 doctrine.
14

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16 **RELIEF**

17 WHEREFORE, Plaintiff respectfully requests this Court to grant the following
18 relief:
19

20 1. For damages in a reasonable amount to compensate Plaintiff fully for
21 deprivation of her constitutional rights;
22

23 2. For damages in a reasonable amount to compensate Plaintiff fully for all of
24 her injuries;
25

26 3. For declaratory and injunctive relief;
27
28

- 1 4. For attorneys' fees pursuant to 42 USC § 1988;
- 2 5. For reimbursement of costs and expenses of suit; and
- 3
- 4 6. For such further relief as the Court deems fair and just.
- 5
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7 **JURY DEMAND**

8 Plaintiff demands a trial by jury on all issues so triable.

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11 DATED this 16th day of February, 2022.

12

13 /s/ Timothy M. Bechtold
14 BECHTOLD LAW FIRM, PLLC

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